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STATUTORY INSTRUMENTS

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**1989 No. 2157 (S.142)**

**FOOD**

**The Meat and Meat Products (Hormonal Substances) (Scotland) Regulations 1989**

<i>Made</i>	- - - -	<i>20th November 1989</i>
<i>Laid before Parliament</i>		<i>1st December 1989</i>
		<i>22nd December</i>
<i>Coming into force</i>	- -	<i>1989</i>

The Secretary of State, being designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Economic Community, acting in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Title, commencement and extent**

1.—(1) These Regulations may be cited as the Meat and Meat Products (Hormonal Substances) (Scotland) Regulations 1989 and shall come into force on 22nd December 1989.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“analyst” means a person having the management or control of an approved laboratory;

“animal” means—

(a) a domestic animal of any of the following species:—

- (i) bovine animals,
- (ii) swine,
- (iii) sheep,
- (iv) goats,
- (v) solipeds,

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(1) S.I. 1972/1811

(2) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982 (c. 48), S.I. 1984/526 and section 66(1) of the Criminal Justice (Scotland) Act 1987 (c. 41)

(vi) poultry,

(b) a wild animal of any of the species described in paragraph (a) above, or

(c) a wild ruminant which has been raised on a holding;

“approved laboratory” has the meaning assigned to it by regulation 2(1) of the Animals and Fresh Meat (Examination for Residues) Regulations 1988((3));

“authorised officer” means a person who is authorised by a local authority to act in relation to the examination and seizure of meat;

“authorised substance” has the meaning assigned to it by regulation 3 of the Animals and Fresh Meat (Hormonal Substances) Regulations 1988((4));

“competent authority” means the Secretary of State;

“curing”, in relation to the treatment of meat, means the distribution of curing salts throughout the product;

“drying”, in relation to the treatment of meat, means the natural or artificial reduction of its water content;

“the Food and Drugs (Scotland) Act” means the Food and Drugs (Scotland) Act 1956((5));

“fresh meat” means meat, including meat vacuum wrapped or wrapped in a controlled atmosphere, which has not undergone any preserving process other than chilling or freezing;

“heating”, in relation to the treatment of meat, means the use of dry or damp heat;

“hormonal substance” has the meaning assigned to it by regulation 2 of the Animals and Fresh Meat (Hormonal Substances) Regulations 1988;

“human consumption” has the meaning assigned to it by section 58 of the Food and Drugs (Scotland) Act;

“local authority” means an islands or district council;

“meat” means—

(a) the flesh or other edible part of an animal suitable for human consumption, and

(b) in relation to the procuring of a sample for the purposes of these Regulations, also extends to all other parts of an animal, and for the purpose of this definition body fluids and excrement found within a dead animal shall be regarded as parts of that animal;

“meat product” means a product prepared from or with meat which has undergone treatment such that the cut surface shows that the product no longer has the characteristics of fresh meat;

“owner” shall include, in relation to any meat or meat product, the person in possession of such meat or meat product;

“prescribed”, in relation to the maximum level for an authorised substance, means prescribed by or in implementation of Community law;

“primary analysis” means an analysis of a sample of meat or meat product carried out by, or under the direction of, an analyst;

“primary analysis certificate” means an analyst’s certificate specifying the finding of a primary analysis;

“reference analysis” means an analysis carried out by, or under the direction of, an analyst to check the finding of a primary analysis;

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(3) S.I. 1988/848

(4) S.I. 1988/849

(5) 1956 c. 30

“reference analysis certificate” means an analyst’s certificate specifying the finding of a reference analysis;

“salting”, in relation to the treatment of meat, means the use of salt;

“sell” includes offer or expose for sale or have in possession for sale, and “sale” and “sold” shall be construed accordingly;

“slaughterhouse” has the meaning assigned to it by section 22 of the Slaughter of Animals (Scotland) Act 1980((6));

“treatment”, in relation to a meat product, means the treatment of meat, whether or not mixed with other food, by heating, salting, curing or drying, or a combination of two or more of these processes;

“withdrawal period” has the meaning assigned to it by regulation 2 of the Animals and Fresh Meat (Hormonal Substances) Regulations 1988.

(2) For the purposes of these Regulations, the supply of any meat or meat product, otherwise than by sale, at, in or from any place where any meat or meat product is supplied in the course of a business shall be deemed to be a sale of that meat or meat product.

(3) Any reference in these Regulations to a numbered regulation shall, unless the context otherwise requires, be construed as a reference to the regulation bearing that number in these Regulations.

### **Prohibitions**

**3.—**(1) Subject to paragraph (2) below, no person shall sell for human or animal consumption any meat (whether or not mixed with other food) derived from an animal to which has been administered any hormonal substance.

(2) Nothing in paragraph (1) above prohibits the sale of any such meat where—

- (a) the hormonal substance administered to the animal is an authorised substance, and
- (b) in the case of a sale for human consumption, the withdrawal period has elapsed since the administration of that substance and before the slaughter of that animal.

(3) No person shall sell for human or animal consumption any meat product prepared from any meat the sale of which is prohibited by paragraph (1) above.

(4) No person shall use as an ingredient in the preparation of any meat product intended for sale for human or animal consumption any meat or meat product the sale of which is prohibited by paragraph (1) or (3) above.

### **Inspection and control**

**4.—**(1) If an authorised officer has reasonable grounds for suspecting that any meat or meat product is material the sale of which would contravene regulation 3, he may give notice to the person in possession of such meat or meat product that, until his investigations are completed,—

- (a) the meat or meat product, or any part of it specified in the notice, shall not be sold or used as an ingredient in the preparation of any meat product intended for sale for human or animal consumption, and
- (b) either it is not to be removed, or it is not to be removed except to a place or for a purpose specified in the notice.

(2) No person shall sell, use or remove any meat or meat product in contravention of the requirements of a notice given under paragraph (1) above.

(3) A notice given under paragraph (1) above may at any time be withdrawn by a further notice in writing given by an authorised officer to the person in possession of the meat or meat product in question and it shall be withdrawn if, as a result of his investigations, an authorised officer is satisfied that the sale of that meat or meat product is not prohibited by regulation 3.

(4) If, as a result of his investigations, an authorised officer is satisfied that the sale of the meat or meat product in question, or any portion of it, would be prohibited by regulation 3, he may deal with it as food falling within section 9(1) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be seized and removed).

(5) Section 9(2) and (3) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be condemned) shall apply to any meat or meat product dealt with in accordance with paragraph (4) above as if food unfit for human consumption included any meat or meat product the sale of which is prohibited by regulation 3.

(6) If a justice of the peace before whom any meat or meat product is brought under this regulation refuses to condemn it, the local authority from which the authorised officer derives his authority shall compensate the owner of the meat or meat product to which the notice related for any depreciation in its value resulting from the action taken by the authorised officer.

#### **Power to procure samples**

5.—(1) Subject to the following paragraphs of this regulation, an authorised officer shall, for the purposes of his functions under these Regulations, have the power to procure samples bestowed on a sampling officer by section 28(2) and (3) of the Food and Drugs (Scotland) Act.

(2) The power of an authorised officer under paragraph (1) above shall extend to the procuring of parts of meat which are not food for the purposes of the Food and Drugs (Scotland) Act.

(3) Any sample taken in pursuance of paragraph (1) or (2) above shall be treated for the purposes of the Food and Drugs (Scotland) Act as if it were a sample taken under section 28 of that Act for the purpose of bacteriological or other examination and not for analysis.

(4) Nothing in this regulation shall be taken to override any provision of regulations 6 to 11.

#### **Primary analysis of samples**

6.—(1) Where an authorised officer—

- (a) procures a sample of meat or meat product, and
- (b) considers that it should be analysed for the purpose of ascertaining whether any offence under these Regulations has been committed,

that sample shall be submitted for analysis at an approved laboratory and dealt with in accordance with paragraph (2) or (3) below.

(2) Where the sample procured is of meat or of a meat product (other than meat or a meat product to which paragraph (3) below refers), part of the sample shall be subjected to a primary analysis, the remainder of the sample being retained for any reference analysis.

(3) Where the sample procured is of any meat or meat product containing the remains of any solid implant, the analyst shall prepare an extract of such implant and subject part of that extract to a primary analysis, the remainder of the extract being retained for any reference analysis.

#### **Results of primary analysis**

7.—(1) Where the primary analysis shows that—

- (a) where the sample is of meat to which regulation 6(2) refers, that meat,

- (b) where the sample is of a meat product to which regulation 6(2) refers, the meat contained in that sample, or
- (c) where the sample is of any meat or meat product containing the remains of a solid implant, such remains of solid implant,

contains—

- (i) a residue of a hormonal substance other than an authorised substance, or
- (ii) in the case of a sample specified in sub-paragraph (a) or (b) above, a quantity of an authorised substance exceeding the maximum level prescribed for that substance,

the analyst shall give a primary analysis certificate to the owner of the meat or meat product and to the authorised officer who submitted the sample.

(2) Where the primary analysis does not show anything requiring a primary analysis certificate to be given under paragraph (1) above, the analyst shall notify the owner of the meat or meat product and the authorised officer who submitted the sample of such result.

### **Reference analysis**

**8.—**(1) If, within a period of seven days from the receipt of the primary analysis certificate, the owner of the meat or meat product challenges the findings specified in that certificate or if an authorised officer in any event so decides, that finding shall be referred by the authorised officer to an approved laboratory for a reference analysis together with—

- (a) the remainder of the sample of meat or meat product retained by the analyst in accordance with regulation 6(2), or
- (b) the remainder of the extract retained by the analyst in accordance with regulation 6(3).

(2) Any challenge under paragraph (1) above shall be made by notice in writing and served on the authorised officer who submitted the sample for analysis.

(3) The analyst who carries out or directs the reference analysis shall give to the owner of the meat or meat product and the authorised officer who submitted the sample a reference analysis certificate.

### **Notification to analyst**

**9.—**(1) An authorised officer who submits to an approved laboratory a sample for a primary analysis shall inform the analyst of that approved laboratory of the name and address of the owner of the meat or meat product from which such sample was taken.

(2) An authorised officer who refers to an approved laboratory a finding specified in a primary analysis certificate for a reference analysis shall inform the analyst of that approved laboratory of the name and address of the owner of the meat or meat product.

### **Methods of analysis**

**10.** The analysis of any sample taken from any meat or meat product for the purposes of these Regulations shall be carried out—

- (a) in relation to a primary analysis, in accordance with methods authorised by Commission Decision [87/410/EEC](#)(**(7)**), and
- (b) in relation to a reference analysis, in accordance with methods determined under Article 5.2 of Council Directive [85/358/EEC](#)(**(8)**).

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(7) OJ No. L223, 11.8.87, p.18.

(8) OJ No. L191, 23.7.85, p.46.

### **Certificates of analysis**

**11.**—(1) Any certificate given by an analyst under these Regulations—

- (a) shall be signed by the analyst, and
- (b) shall specify the name of the authorised officer who submitted the sample for analysis and the name and address of the local authority whose officer he is.

(2) No person shall be convicted of an offence under regulation 3 in any proceedings relating to any meat or meat product unless the evidence in those proceedings relating to that meat or meat product includes an appropriate analysis certificate.

(3) For the purposes of paragraph (2) above an appropriate analysis certificate is—

- (a) in a case where a reference analysis is required to be made under regulation 8, a reference analysis certificate, and
- (b) in any other case, a primary analysis certificate.

### **Notification to competent authority**

**12.**—(1) If an authorised officer—

- (a) is of the opinion as a result of information revealed by an analysis of any meat or meat product, or
- (b) otherwise has reasonable grounds for suspecting,

that any animal at a slaughterhouse, farm or any other place may contain a residue of a hormonal substance other than an authorised substance or a quantity of an authorised substance exceeding the maximum prescribed for that substance, the authorised officer shall act in accordance with paragraph (2) below.

(2) The authorised officer shall immediately—

- (a) inform the competent authority of his opinion and the result of the analysis of meat or meat product, or
- (b) inform the competent authority of his suspicion and the grounds for such suspicion,

and, in either case, supply to the competent authority such particulars as the authorised officer is able to supply so as to enable the competent authority to identify the animal and the place where it is.

### **Service of notices or certificates**

**13.** Any notice or certificate to be given to any person under these Regulations may be given—

- (a) by delivering it to that person; or
- (b) by leaving it or sending it in a prepaid letter addressed to him at his usual or last known residence; or
- (c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office.

### **Application of various provisions of the Food and Drugs (Scotland) Act**

**14.**—(1) Subject to paragraph (2) of this regulation, the following provisions of the Food and Drugs (Scotland) Act shall apply for the purposes of these Regulations as if these Regulations had been made under that Act:—

- (a) section 36 (which relates to the power to enter premises);

- (b) section 37, other than paragraph (a) of subsection (1), (which relates to the power to enter ships, aircraft, vehicles, etc.);
  - (c) section 39 (which relates to obstruction);
  - (d) section 41(1), (2), (3), and (4) (which relates to proceedings);
  - (e) section 42(1) and (3) (which relates to evidence of certificates of analysis etc.);
  - (f) section 43 (which relates to presumptions);
  - (g) section 46 (which relates to conditions under which a warranty may be pleaded as a defence);
  - (h) section 47 (which relates to offences in relation to warranties and certificates of analysis);
  - (i) section 48 (which relates to disputes as to compensation).
- (2) For the purposes of these Regulations—
- (a) section 40 of the Food and Drugs (Scotland) Act shall apply as if the references therein to a fine were a reference to the fine specified in regulation 18;
  - (b) section 41(1) of the Food and Drugs (Scotland) Act shall apply as if references therein to a sample procured under that Act included a reference to a sample procured for the purposes of these Regulations and section 41(2) of that Act shall apply as if the reference to any proceedings under that Act included a reference to proceedings for an offence under these Regulations;
  - (c) section 42(1) and (3) of the Food and Drugs (Scotland) Act shall apply as if the references therein to a public analyst were references to an analyst as defined in regulation 2(1) and references to a certificate of a public analyst were references to a certificate of analysis given under these Regulations;
  - (d) section 46(2) of the Food and Drugs (Scotland) Act shall apply as if reference therein to proceedings under that Act included a reference to proceedings for an offence under these Regulations;
  - (e) section 47 of the Food and Drugs (Scotland) Act shall apply as if references therein to that Act included a reference to these Regulations and references to a certificate of analysis were a reference to a primary analysis certificate or a reference analysis certificate;
  - (f) section 48 of the Food and Drugs (Scotland) Act shall apply as if the reference therein were a reference to these Regulations.

### **Condemnation of meat or meat products**

#### **15.—(1) Any meat or meat product—**

##### **(a) in respect of which—**

- (i) a primary analysis certificate has been issued in accordance with regulation 7(1), and
- (ii) the period for challenging the finding specified in that certificate under regulation 8 has expired without such challenge, or

##### **(b) in respect of which a reference analysis certificate has been issued in accordance with regulation 8 confirming the finding specified in a primary analysis certificate,**

may be dealt with as food falling within section 9(1) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be seized and removed).

(2) Section 9(2) and (3) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be condemned) shall apply to any meat or meat product dealt with in accordance with paragraph (1) above as if food unfit for human consumption included any meat or meat product the sale of which is prohibited by regulation 3.

## **Enforcement**

16. Each local authority shall enforce and execute these Regulations in its area.

### **Competent authority's powers**

17.—(1) The competent authority may for the purpose of complying with any Community obligation in relation to any meat or meat product suspected by the competent authority of containing a residue of a hormonal substance exercise the powers specified in paragraph (2) below.

(2) The competent authority may direct an officer of such authority to procure samples of any meat or meat product and upon that direction—

- (a) the officer shall have all the powers of an authorised officer to procure such samples and to submit them to an approved laboratory for primary analysis or reference analysis in accordance with these Regulations, and where those powers are exercised by that officer—
  - (i) regulations 7 and 8 shall apply to him as if he were an authorised officer and
  - (ii) regulation 11(1)(b) shall apply to him and the competent authority as if he were an authorised officer and it were a local authority, and
- (b) in relation to any meat in a slaughterhouse, if the officer has reasonable grounds for suspecting that the sale of such meat would contravene regulation 3, he shall have the power specified in paragraph (3) below.

(3) The officer may give notice to the person in possession of the meat that until his investigations are completed—

- (a) the meat, or any part of it specified in the notice, shall not be sold or used as an ingredient in the preparation of any meat product intended for sale for human or animal consumption, and
- (b) either it is not to be removed, or it is not to be removed except to a place or for a purpose specified in the notice.

(4) No person shall sell, use or remove any meat in contravention of the requirements of a notice given under paragraph (3) above.

(5) A notice given under paragraph (3) above may at any time be withdrawn by a further notice in writing given by an officer of the competent authority to the person in possession of the meat in question and it shall be withdrawn if, as a result of his investigations, the officer is satisfied that the sale of that meat is not prohibited by regulation 3.

(6) An officer of a competent authority who submits to an approved laboratory a sample for a primary or reference analysis shall inform the analyst of that approved laboratory of the name and address of the owner of the meat or meat product in accordance with regulation 9.

(7) Where a primary analysis certificate or a primary analysis certificate and a reference analysis certificate have been issued in relation to a sample submitted for analysis by an officer of a competent authority, that competent authority shall—

- (a) notify the local authority of the action taken by the competent authority, and
- (b) forward to the local authority the certificate or certificates of analysis issued by the analyst.

(8) On receiving a notification and a certificate or certificates of analysis in accordance with paragraph (7) above, the local authority shall have the like duty to take action as if one of its authorised officers had procured the sample and sent it to be analysed for the purpose of ascertaining whether any offence under these Regulations has been committed.

(9) If, upon consideration of any certificate or certificates of analysis forwarded by a competent authority in accordance with paragraph (7) above, an authorised officer is satisfied that the sale of the meat in question, or any portion of it, would be prohibited by regulation 3, he may deal with it



as food falling within section 9(1) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be seized).

(10) Section 9(2) and (3) of the Food and Drugs (Scotland) Act (under which food unfit for human consumption may be condemned) shall apply to any meat dealt with in accordance with paragraph (9) above as if food unfit for human consumption included any meat the sale of which is prohibited by regulation 3.

(11) If a justice of the peace before whom any meat is brought pursuant to any action taken under paragraph (9) above refuses to condemn such meat, the competent authority who made the notification to the local authority in accordance with paragraph (7) above shall compensate the owner of the meat for any depreciation in its value resulting from the action taken by an authorised officer.

### **Penalty**

**18.** If any person contravenes or fails to comply with any of the provisions of these Regulations he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

### **Offences by officers of bodies corporate**

**19.—(1)** Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or a similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **Offences due to fault of another person**

**20.** Where the commission by any person of an offence under these Regulations is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are brought against the first-mentioned person.

### **Defence of due diligence**

**21.—(1)** In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided by the last foregoing paragraph involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information to identify or assist in identifying that other person as was then in his possession.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St Andrew's House,  
Edinburgh  
20th November 1989

*Sanderson of Bowden*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply to Scotland only, come into force on 22nd December 1989. They implement Article 2(c) and (d) of Council Directive [81/602/EEC](#) (OJ No.L 222, 7.8.81, p.32) concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action, in part Articles 4, 5 and 6 of Council Directive [85/358/EEC](#) (OJ No. L 191, 23.7.85, p.46) supplementing Directive [81/602/EEC](#) and Article 1 of Council Directive [86/469/EEC](#) (OJ No. L 275, 26.9.86, p.36) concerning the presence of animals and fresh meat for the presence of residues.

The Regulations—

- (a) prohibit the sale for human or animal consumption of meat of any animals to which have been administered any hormonal substance except where such substance is an authorised substance and, where the sale is for human consumption, the withdrawal period has elapsed since the administration of the substance and the slaughter of the animal; the sale of meat products prepared from such meat and the use of such meat as an ingredient in the preparation of any meat product are also prohibited (regulation 3);
- (b) empower an authorised officer who has reasonable grounds for suspecting that any meat or meat product is material the sale of which is prohibited, to give notice to the person in possession of such meat or meat product prohibiting its sale or use as an ingredient in any meat product for sale for human or animal consumption or its removal except to a place or for a purpose specified in the notice; an authorised officer is also empowered to deal with such meat or meat product in the same way as food suspected of being unfit, in accordance with section 9 of the Food and Drugs (Scotland) Act (regulation 4);
- (c) empower an authorised officer to take samples and make provision for the primary analysis of samples of any meat or meat product and of any such samples containing the remains of any solid implants, for notification to the owner and the authorised officer of positive findings of a hormonal substance other than an authorised substance or of a quantity of an authorised substance exceeding the maximum level prescribed for that substance, for reference analysis where the owner of the meat or meat product challenges such findings or the authorised officer so decides and notification to the analyst of the name and address of owners of meat or meat products sent for analysis (regulations 5 to 9);
- (d) specify the methods of analysis and the requirements in relation to certificates of analysis and provide that no person shall be convicted of an offence under regulation 3 unless the evidence in such proceedings includes a primary or reference analysis certificate (regulations 10 and 11);
- (e) require an authorised officer to notify a competent authority in specified circumstances (regulation 12);
- (f) make provision for the service of notices and certificates (regulation 13);
- (g) make provision for the application of specified provisions of the Food and Drugs (Scotland) Act as if the Regulations were made under that Act (regulation 14);
- (h) make provision for the condemnation of meat or meat products, the sale of which is prohibited (regulation 15);

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- (i) require each local authority to enforce and execute the Regulations within its area (regulation 16);
- (j) empower the competent authority, in specified circumstances, to procure samples of meat and meat products for analysis and pending investigations to prohibit the sale or use as an ingredient in food of any meat in a slaughterhouse, to submit the samples for primary or reference analysis and also make provision for the communication of the results of such analysis to the local authority for proceedings to be taken (regulation 17);
- (k) make provision for a penalty, offences by corporations, offences due to the fault of another person and a defence of due diligence to proceedings for any offence under the Regulations (regulations 18 to 21).

Article 2(a) of Directive [81/602/EEC](#), which prohibits administration of hormonal substances to animals except for specified purposes, has been implemented by the Medicines (Hormone Growth Promoters) (Prohibition of Use) Regulations 1988 (S.I. [1988/705](#)). Article 2(b) of that Directive [81/602/EEC](#), which prohibits the sale or slaughter of animals to which hormonal substances have been administered, has been implemented by the Animals and Fresh Meat (Hormonal Substances) Regulations 1988 (S.I. [1988/849](#)).